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8 IN THE UNITED STATES DISTRICT COURT  
9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10 DAVIDT NATHAN WITHERN,  
11 aka RUSSELL D. BURGESS,  
12 aka RUSSELL A. BURGESS,  
13 aka DAVID STAR WINTERZ,

Petitioner,

No. CIV S-03-0588 JAM EFB P

14 vs.

15 EDWARD S. ALAMEIDA,

16 Respondent.

ORDER

17 Petitioner, a state prisoner proceeding pro se, has filed this application for a writ  
18 of habeas corpus pursuant to 28 U.S.C. § 2254. The matter was referred to a United States  
19 Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local General Order No. 262.

20 On January 26, 2010, the magistrate judge filed findings and recommendations  
21 herein which were served on all parties and which contained notice to all parties that any  
22 objections to the findings and recommendations were to be filed within twenty-one days.  
23 Petitioner has filed objections to the findings and recommendations.

24 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule  
25 304, this court has conducted a de novo review of this case. Having carefully reviewed the entire  
26 file, the court finds the findings and recommendations to be supported by the record and by

1 proper analysis.

2 Accordingly, IT IS HEREBY ORDERED that:

- 3 1. The findings and recommendations filed January 26, 2010, are adopted in full;
- 4 2. Petitioner's application for a writ of habeas corpus is denied;
- 5 3. The Clerk is directed to close the case; and
- 6 4. The court declines to issue a certificate of appealability.

7 DATED: March 22, 2010

8  
9 /s/ John A. Mendez

10 UNITED STATES DISTRICT JUDGE